THE HONOUABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 6144 of 2007

Date:29-03-2007

Between:

G.Ramchander .. **PETITIONER**

AND

The Commissioner for Prohibition & Excise and anther

..

RESPONDENTS

ORDER:

The petitioner seek a writ of mandamus to declare the action of the respondents in colleting the licence fee for a period of 12 months i.e. from 01.07.2005 to 30.06.2006 even though the licence was issued on 05.08.2005 by the second respondent as illegal and arbitrary.

2. Heard the learned counsel appearing for the petitioner as well as the learned Government Pleader for Excise.

3. It is stated that in respect of Form 2(B) licence for the excise year 2005-06 commenced from 01.07.2005 and ended with 30.06.2006. The actual licence was granted only on 05.08.2005. But, the respondents have collected the proportionate licence fee for the unlicenced period also from 01.07.2005 to 04.08.2005. It is stated that the respondents are not entitled to collect the licence fee prior to the period of grant of licence. It is further stated that the issue raised in this writ petition is squarely covered by the judgment of this Court in W.P.No.23415 of 2006, dated 25.04.2006 which was also confirmed by the Division Bench of this Court in W.A.No.686 of 2006, dated 19.06.2006.

4. Having regard to the facts of the case, the writ petition is disposed of granting liberty to the petitioner to make an appropriate representation before the respondents for the refund of the proportionate licence fee. If any such representation is made, the same shall be considered in terms of the orders of this Court in W.P.No.23415 of 2006, dated 25.04.2006 and pass appropriate orders in accordance with law within four weeks from the date of receipt of such representation. No costs.

V.ESWARAIAH, J.

Date:29.03.2007
CCM